IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 9179 of 2004

Between:

Thummisetty Venkata Subbaiah, S/o. Thummisetty Guruvaiah,
R/o. 15/64, Venkataiah Nagar, Badval, Kadapa District.

..... PETITIONER

AND

1 The Joint Collector, Kadapa, Kadapa District.
2 The Mandal Revenue Officer, Gopavaram Mandal, Kadapa District.

..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or Writ one in the nature of Writ of Mandamus, declaring the action of the Respondents in proceeding to evict and demolish the house of the petitioner in Sy.No.827/6 in over an extent of Acres 0.03 cents in Madakalavaripalli Village fields, Gopavaram Mandal, Kadapa District as arbitrary, illegal and contrary to A.P. Land Encroachment Act, 1905

Counsel for the Petitioner:SMT.N.SHOBA

Counsel for the Respondents.: GP FOR REVENUE

The Court at the stage of admission made the following :

ORDER:

The petitioner claims to be in possession and enjoyment of land to an extent of o.03 Cents in Survey No.827/6, Madakalavaripalli village having acquired the same in a family partition. It is stated that the petitioner is Chairman of Vidya Committee of Venkataiahnagar and raised a foundation for construction of school. Questioning the said action, one “George Samuel Memorial Upper Primary School” filed Writ Petition No. 2236 of 1999 and the same was allowed by order dated
16-2-2000. Thereafter notice dated 2-1-2003 was issued directing the petitioner to remove the foundation laid by him for construction or to produce the documentary proof in support of his right over the subject property. The petitioner is stated to have submitted a detailed explanation on 17-1-2003. Thereafter another notice dated 29-4-2004 was issued stating that the petitioner is in unauthorized occupation of the subject land and raised certain construction and called upon the petitioner to produce evidence in support of his claim over the property. The petitioner is stated to have submitted his explanation on 1-5-2004. The grievance of the petitioner is that without considering his explanation and without following due procedure laid down under law, the respondents are trying to evict him from the subject land, hence the present writ petition.

This Court while issuing notices to respondents by order dated
18-5-2004, granted interim stay of eviction and demolition of the subject house.

The second respondent filed a counter affidavit denying the allegations made by the petitioner. It is stated in the counter affidavit that the petitioner is an unauthorized occupant of the subject land and a notice dated 29-4-2004 was issued to him to produce the evidence to establish his right over the property and to stop the further construction and that the petitioner has not submitted any reply. Thereafter a notice dated 14-5-2004 under section 7 of the Land Encroachment Act, 1905 was issued to the petitioner, for which after filing the present writ petition the petitioner has submitted his explanation on 21-5-2004. It is also stated merely on an apprehension the present writ petition is filed and in view of the interim orders passed by this Court, the final orders are not passed.

Since, the petitioner has filed his explanation to the notice dated 14-5-2004 and no final orders are passed, without going into the merits of the matter, I deem it appropriate to dispose of the writ petition directing the respondents to consider the explanation submitted by the petitioner and pass final orders in accordance with law, expeditiously. Till such time, status obtaining as on today shall be maintained.

Subject to above direction, the writ petition is disposed of. No costs.

_____

N.V.RAMANA,J

17TH JANUARY, 2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Joint Collector, Kadapa, Kadapa District.
2 The Mandal Revenue Officer, Gopavaram Mandal, Kadapa District.

3.2CCs to G.P. for Revenue, High Court of A.P.buildings, Hyderabad

(OUT)

4.2CD copies

*Form-NIC-OGS/WP{**SPJS**}*